

REPORT

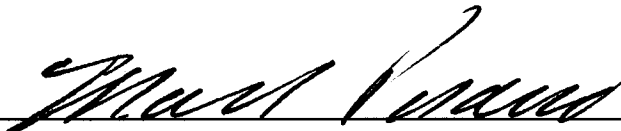
DATE: June 1, 2006

TO: Energy and Environment Committee

FROM: Solid Waste Task Force
Jacob Lieb, Acting Lead Regional Planner, (213) 236-1921, lieb@scag.ca.gov

SUBJECT: Assembly Bill 2176 (Niello)

EXECUTIVE DIRECTOR'S APPROVAL:



RECOMMENDED ACTION:

Recommend support

SUMMARY

While current law requires that the State of California reimburse local agencies for State mandated local programs, in many cases mandated activities are not eligible for reimbursement due to real or presumed authority for the local agency to charge a fee. This legislation would require the legislature to specify what fees can be charged, and whether any fee would be sufficient to cover mandated costs before making programs ineligible for reimbursement.

BACKGROUND:

The California Constitution requires reimbursement of State mandated local programs. However, the State often is able to avoid reimbursement by granting or referencing fee authority for the local agency performing the mandated function. This issue arises in many instances for local governments in the Southern California region including in housing planning, and notably in the management of solid waste programs and facilities. The proposed legislation would require the State to analyze the ability of the local agency to produce fee based revenue prior to making any program ineligible for State reimbursement.

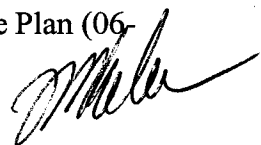
Solid Waste management and disposal continues to be a serious issue facing the Southern California region. SCAG has provided on-going planning and leadership in this area under the Solid Waste Task Force. Additionally, SCAG is preparing a Solid and Hazardous Waste Chapter as part of its Regional Comprehensive Plan.

The Solid Waste Task Force, at its April 25 meeting, recommended that the Energy and Environment Committee and the Regional Council support the bill.

FISCAL IMPACT:

There is no fiscal impact associated with the recommended action. SCAG's activities in solid waste planning are included in the Overall Work Program as part of the Regional Comprehensive Plan (06-035.scgs1)

Attachment:
Text of bill



AMENDED IN ASSEMBLY MAY 3, 2006
AMENDED IN ASSEMBLY APRIL 24, 2006
AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2176

Introduced by Assembly Member Niello

February 21, 2006

An act to amend Section 17556 of, and to add Section 17556.1 to, the Government Code, relating to state mandates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2176, as amended, Niello. State mandates.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions require the Commission on State Mandates to make that reimbursement according to specified procedures and direct the commission not to provide reimbursement if, after a hearing, it finds, among other things, that the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

This bill would provide that, with respect to a statute that states that it does not impose a mandate for which costs are reimbursable by the state because the local agency or school district to which the statute applies has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service, the Legislature shall specify upon whom the charge, fee, or assessment may be levied ~~and provide a reasonable estimate as to whether the charge, fee, or assessment will generate funds sufficient to~~

~~pay the costs the local agency or school district will incur to provide the mandated program or increased level of service.~~ It also would authorize the commission to find that an agency's or school district's costs of providing the mandated program or increased level of service that exceed the amount of funds generated by charges, fees, or assessments shall be reimbursable by the state.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17556 of the Government Code is
2 amended to read:
3 17556. The commission shall not find costs mandated by the
4 state, as defined in Section 17514, in any claim submitted by a
5 local agency or school district, if, after a hearing, the commission
6 finds that:
7 (a) The claim is submitted by a local agency or school district
8 that requested legislative authority for that local agency or school
9 district to implement the program specified in the statute, and
10 that statute imposes costs upon that local agency or school
11 district requesting the legislative authority. A resolution from the
12 governing body or a letter from a delegated representative of the
13 governing body of a local agency or school district that requests
14 authorization for that local agency or school district to implement
15 a given program shall constitute a request within the meaning of
16 this paragraph.
17 (b) The statute or executive order affirmed for the state a
18 mandate that had been declared existing law or regulation by
19 action of the courts.
20 (c) The statute or executive order imposes a requirement that
21 is mandated by a federal law or regulation and results in costs
22 mandated by the federal government, unless the statute or
23 executive order mandates costs that exceed the mandate in that
24 federal law or regulation. This subdivision applies regardless of
25 whether the federal law or regulation was enacted or adopted
26 prior to or after the date on which the state statute or executive
27 order was enacted or issued.
28 (d) The local agency or school district has the authority to levy
29 service charges, fees, or assessments sufficient to pay for the

1 mandated program or increased level of service as provided in
2 Section 17556.1, except that costs of providing the mandated
3 program or increased level of service that exceed the amount of
4 funds generated by charges, fees, or assessments shall be
5 reimbursable by the state.

6 (e) The statute, executive order, or an appropriation in a
7 Budget Act or other bill provides for offsetting savings to local
8 agencies or school districts that result in no net costs to the local
9 agencies or school districts, or includes additional revenue that
10 was specifically intended to fund the costs of the state mandate in
11 an amount sufficient to fund the cost of the state mandate.

12 (f) The statute or executive order imposes duties that are
13 necessary to implement, reasonably within the scope of, or
14 expressly included in a ballot measure approved by the voters in
15 a statewide or local election. This subdivision applies regardless
16 of whether the statute or executive order was enacted or adopted
17 before or after the date on which the ballot measure was
18 approved by the voters.

19 (g) The statute created a new crime or infraction, eliminated a
20 crime or infraction, or changed the penalty for a crime or
21 infraction, but only for that portion of the statute relating directly
22 to the enforcement of the crime or infraction.

23 SEC. 2. Section 17556.1 is added to the Government Code, to
24 read:

25 17556.1. With respect to any statute that states that it does not
26 impose a mandate for which costs are reimbursable by the state
27 because the local agency or school district to which the statute
28 applies has the authority to levy service charges, fees, or
29 assessments sufficient to pay for the mandated program or
30 increased level of service, as described in subdivision (d) of
31 Section 17556, ~~the Legislature shall do both of the following: the~~
32 *Legislature shall specify upon whom the charge, fee, or*
33 *assessment may be levied.*

34 ~~(a) Specify upon whom the charge, fee, or assessment may be~~
35 ~~levied.~~

36 ~~(b) Provide a reasonable estimate as to whether the charge,~~
37 ~~fee, or assessment will generate funds sufficient to pay the costs~~

- 1 ~~the local agency or school district will incur to provide the~~
- 2 ~~mandated program or increased level of service.~~

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